VIRGINIA SOCIETY FOR HUMAN LIFE, INC., et al., Plaintiffs,
v.
Donald S. CALDWELL, et al., Defendants.

Civ. A. No. 95-1042-R.

United States District Court,
W.D. Virginia,
Roanoke Division.

Oct. 30, 1995.

***1072** Donald Wise Huffman, Donald W. Huffman & Associates, P.C., Roanoke, VA. James Bopp, Jr., and Richard E. Coleson, Bopp, Coleson & Bostrom, Terre Haute, IN, for plaintiffs.

Alice Ann Berkebile, James S. Gilmore, III, and Lee Melchor Turlington, Office of the Attorney General, Richmond, VA, for defendants.

CORRECTED MEMORANDUM OPINION

WILSON, District Judge.

Plaintiffs, Virginia Society for Human Life, Inc. ("VSHL"), and Andrea Sexton, bring this action for declaratory and injunctive relief pursuant to 42 U.S.C. § 1983 for infringement of their rights to freedom of speech in violation of the First and Fourteenth Amendments to the United States Constitution. VSHL is a nonprofit, nonstock, public interest corporation that purportedly engages in "issue advocacy" in Virginia through the

preparation and distribution of "voter guides."[1] Sexton is a Virginia resident who distributes those guides in Virginia at her own expense. Defendants are Virginia's Commonwealth's Attorneys and members of the State Board of Elections charged with enforcing Virginia's election laws.[2] VSHL and Sexton maintain that various provisions of Virginia's Campaign Finance Disclosure Act, VA.CODE Ann. §§ 24.2-901 to 24.2-930 (1993), are overly broad and chill their free speech rights. They seek a declaratory judgment declaring the challenged provisions unconstitutional, and they seek to enjoin defendants from enforcing those provisions. Defendants contend that the challenged provisions do not apply to VSHL and Sexton and that the relief sought should be denied. The court finds that the challenged provisions arguably apply to VSHL and Sexton and have a chilling effect on their freedom of speech, if not narrowed by construction. Because a narrow reading could cure constitutional infirmity in two of the challenged provisions, this court, in the interest of avoiding potentially unnecessary constitutional adjudication and in the interest of federalism and comity, will submit issues of state statutory construction involving these provisions to the Virginia Supreme Court. In the meantime, however, this court will preliminarily enjoin enforcement of the challenged provisions.

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[1] *See* Appendix 3(A)(i); 3(A)(ii); 3(B).

[2] Named defendants are Donald S. Caldwell, Pamela M. Clark, Dr. George M. Hampton, and Bruce Meadows. The Commonwealth's Attorneys for the Commonwealth of Virginia have been certified as a defendant class pursuant to Federal Rule of Civil Procedure 23 in accordance with the court's order dated October 11, 1995.

I.

VSHL and Sexton challenge three sections of Virginia's Campaign Finance Disclosure Act, VA. CODE Ann. § 24.2-908, § 24.2-910, and § 24.2-1014.[3] Section 24.2-908 requires, with certain exceptions, "each person and political committee which anticipates receiving contributions or making expenditures in excess of $100" to file a "statement of organization" with the State Board of Elections detailing organizational, identifying and financial information. Section 24.2-910 requires persons and organizations subject to § 24.2-908 to maintain records and file disclosure reports. It also requires, in part, persons and political committees making "independent expenditures" to maintain records and report "contributions" received and "expenditures" made of:

> 1. Any funds, in the aggregate, in excess of $500 for a statewide election or $100 for any other election expended for the purpose of influencing the outcome of any election;
> 2. Any funds in any amount expended to publish or broadcast to the public any material referring to a candidate by name, description, or other reference and (i) advocating his election or defeat, (ii) setting forth his position on any public issue, voting record, or other official acts, or (iii) otherwise designed to influence individuals to cast their votes for or against him or to withhold their votes from him; and
> 3. Any funds in any amount expended to publish or broadcast to the public any material promoting or opposing a question submitted to the voters in a referendum.

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[3] *See* Appendix 1(A); 1(B); 1(C); 1(D).

VA.CODE Ann. § 24.2-910.

The third challenged section, § 24.2-1014, makes it unlawful "to cause any writing . . . to appear concerning any potential nominee or candidate, or concerning any question to be submitted to the voters unless such writing plainly identifies the person responsible for it," § 24.2-1014(B), and if that person is required to file a statement of organization under § 24.2-908, the writing must contain a registration number provided by the State Board of Elections. § 24.2-1014(B)(3).

On several occasions, state circuit courts have not only broadly construed similar provisions of the predecessor to Virginia's Campaign Finance Disclosure Act, the Fair Election Practice Act, VA.CODE Ann. §§ 24.1-252 to 24.1-263.1 (repealed 1993), but also have relied on those similarly worded provisions to impose unconstitutional prior restraints. In 1989, for example, Virginia held elections for Governor, Lieutenant Governor, Attorney General, and the General Assembly. The Virginia Leadership Council ("VLC"), an unincorporated association consisting of various Virginia citizens, prepared over one million voter cards comparing the political positions taken by the major parties' candidates. On November 4, 1989, three days before the election, a judge of the Circuit Court of the City of Richmond enjoined VLC and an individual "from distributing any literature of a political nature without first identifying by name and address the person causing the literature to be distributed, and including on any literature distributed the required authorization statement."[4] By its terms, the injunction expired after the election.

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[4] *See* Appendix 2(A)(i).

In connection with the 1989 elections, the "Committee for Providing Truth in Political Candidate Positions," an unincorporated association in Fairfax County, Virginia, consisting of various Fairfax County residents, prepared a handbill entitled "Read Before You Vote." The Democratic Party of Virginia ("DPV"), brought suit against that association and the VLC seeking an injunction. The day before the election, the Circuit Court of Fairfax County issued an unconstitutional prior restraint enjoining them from distributing or causing to be distributed the "Read Before You Vote" handbills and the "Leadership '89 Voter Cards" as well as "any other materials or publications or writings as defined in 24.1-277."[5] The injunction was effective "until such time as the defendants ***1074** [could] demonstrate to the Court compliance with the law."[6]

In 1993, elections were held again for Governor, Lieutenant Governor, Attorney General, and the General Assembly. Following a similar pattern, the Circuit Court of Fairfax County entertained a suit shortly before the election to enjoin distribution of certain handbills. On October 27, 1993, the Circuit Court enjoined the defendants "from distributing any writing about candidates for any office elective . . . without first filing a statement of organization with the [Virginia State] Board [of Elections]" and identified on the writing "the person responsible therefor" and the registration number.[7] The Virginia

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[5] *See* Appendix 2(B).

[6] *Id.*

[7] *See* Appendix 2(C).

Supreme Court dissolved the injunction on November 1, 1993, without opinion.[8]

VSHL and Sexton now maintain that they would like to distribute voter guides that are equivalent to voter guides found unlawful and enjoined in connection with the 1989 and 1993 elections. However, they are concerned that they would be subject to civil and criminal penalties if their voter guides do not conform with Virginia law as that law has been applied by Virginia's circuit courts. On October 11, 1995, this court held a hearing on VSHL's and Sexton's motion for a preliminary injunction to enjoin enforcement of the challenged provisions. At the conclusion of the hearing, the court took the motion for preliminary injunction under advisement and issued a temporary restraining order restraining application of the challenged provisions to VSHL and Sexton, except in the case of "express advocacy for the election or defeat of a specific candidate." *Virginia Society for Human Life, Inc. v. Caldwell*, Civil No. 95-1042-R, (W.D.Va. Oct. 11, 1995) (temporarily enjoining enforcement of challenged statutes).

II.

Federal courts should abstain from deciding constitutional claims if a state court's interpretation of an unclear state statute might eliminate the constitutional issue. *Railroad Comm'n v. Pullman*, 312 U.S. 496, 61

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[8] Defendants in the Fairfax County Circuit Court action filed suit in the United States District Court for the Eastern District of Virginia immediately following the Circuit Court's injunction. The district court dismissed the suit on the authority of *Younger v. Harris*, 401 U.S. 37, 91 S. Ct. 746, 27 L.Ed.2d 669 (1971). The Court of Appeals concluded that abstention was proper. *See Family Foundation, Inc. v. Brown*, 9 F.3d 1075 (4th Cir.1993).

S. Ct. 643, 85 L.Ed. 971 (1941); *Educational Serv., Inc. v. Maryland State Bd. for Higher Educ.*, 710 F.2d 170 (4th Cir.1983). Defendants maintain that the challenged provisions do not apply to pure issue advocacy, and thus, injunctive relief is unnecessary as to plaintiffs' "voter guides."[9] In any event, defendants urge the court to submit constitutional questions to the Virginia Supreme Court. VSHL and Sexton respond that the provisions apply to them and that similar provisions of predecessor statutes have been broadly applied by the Virginia circuit courts to enjoin "issue advocacy," thus chilling their freedom of speech. They claim the challenged provisions are excessively overbroad, that no construction can save them, and that this court should declare them unconstitutional.

This court rejects the course of action suggested by each side. First, as to defendants' suggested course of action, Pullman counsels abstention, not abdication. The challenged provisions are arguably overbroad, and that potential overbreadth has been burdened further by the unhelpful constructions of various state circuit courts that have chilled First Amendment speech and imposed unconstitutional prior restraints. The constitutionality of the provisions is properly challenged in federal court, and the court cannot fulfill its responsibility by sending that constitutional challenge elsewhere. Pullman and federalism counsel that issues of state statutory construction, but not constitutional interpretation, be submitted to the Virginia Supreme Court. Second, as to plaintiffs' suggested ***1075** course of action, this court has

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[9] In a recent opinion letter, the Attorney General of the Commonwealth of Virginia narrowly construed VA.CODE Ann. § 24.2-1014, as he now urges this court to do. (Opinion Letter from Attorney General of the Commonwealth of Virginia to M. Bruce Meadows, July 13, 1995.)

concluded that there are narrow constructions that the Virginia Supreme Court might place on § 24.2-908 and § 24.2-910 that would eliminate some constitutional issues. Under such circumstances, the court is satisfied that the provident course is to certify the issues of state statutory construction to the Virginia Supreme Court and, while awaiting that court's response, narrow application of the provisions by preliminary injunction. *See Roe v. Alabama*, 43 F.3d 574 (11th Cir.1995).

VA.CODE Ann. § 24.2-908

At first blush, § 24.2-908 appears to apply to organizations engaged in pure issue advocacy and not simply electioneering. The "statement of organization" required by § 24.2-908, however, is tied to the receipt of contributions or the making of expenditures "for the purpose of influencing the outcome of an election." *See* § 24.2-901.

In *Buckley v. Valeo*, 424 U.S. 1, 96 S. Ct. 612, 46 L.Ed.2d 659 (1976), the United States Supreme Court narrowly construed the language "for purpose of influencing the outcome of an election" contained in the Federal Election Campaign Act, by tying it to a major purpose of the Act's disclosure provision--"to reach only funds used for communications that expressly advocate the election or defeat of a clearly identified candidate," and thereby, avoided its application to "groups engaged purely in issue discussion." *Id.* at 79, 96 S. Ct. at 664.[10] It is

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[10] "Buckley adopted the 'express advocacy' requirement to distinguish discussion of issues and candidates from more pointed exhortations to vote for particular persons." *Federal Election Comm'n v. Massachusetts Citizens for Life, Inc.*, 479 U.S. 238, 249, 107 S. Ct. 616, 623, 93 L.Ed.2d 539 (1986). This court recognizes that the line between "issue advocacy" and advocacy

conceivable that the Virginia Supreme Court might do likewise with § 24.2-908. It would be incongruous for federal courts to narrowly construe the Federal Election Campaign Act so as to avoid constitutional challenge and then reach out and invalidate Virginia's Campaign Finance Disclosure Act without submitting pivotal statutory construction issues to the Virginia Supreme Court.

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for the election or defeat of a candidate will often be a hard line to draw. But given the clash between the First Amendment and the states' strong interest in ensuring that elections are fair and open to real public scrutiny, lines must be drawn.

VSHL argues that § 24.2-908 and § 24.2-910 cannot be applied to an organization that has issue advocacy as its primary purpose. Indeed, the Court of Appeals for the D.C. Circuit intimated that the Federal Election Commission avoided a serious "First Amendment issue of the sort seen in cases like *NAACP v. Alabama*, 357 U.S. 449, 460, 78 S. Ct. 1163, 1170-71, 93 L.Ed.2d 1488 (1958)," when it applied "the major purpose test" to the "core purpose of the organization itself, [and] not the individual expenditure or contribution." *Akins v. Federal Election Comm'n*, 66 F.3d 348, 355 (D.C.Cir.1995). The D.C. Circuit's conclusion, however, might be somewhat at odds with the Supreme Court's reasoning in *Buckley*. "The *Buckley* court concluded that the disclosure of a group's independent campaign expenditures serves the important governmental interest of 'shed [ding] the light of publicity' on campaign financing, thereby helping voters to evaluate the constituencies of those who seek federal office. As a result, the burden of disclosing independent expenditures generally is 'a reasonable and minimally restrictive method of furthering First Amendment values by opening the basic processes of our federal election system to public view.'" *Federal Election Comm'n v. Massachusetts Citizens for Life, Inc.*, 479 U.S. 238, 265, 107 S. Ct. 616, 632, 93 L.Ed.2d 539 (1986) (O'Connor, J., concurring in part and concurring in the judgment and quoting *Buckley*, 424 U.S. at 81-82, 96 S. Ct. at 664-665) (citations omitted).

VA.CODE Ann. § 24.2-910

Section 24.2-910 appears facially overbroad when read apart from the definitions of § 24.2-901. The disclosure requirements complained of, however, are once again tied to the receipt of "contributions" and the making of "expenditures," § 24.2-910(B), "for the purpose of influencing the outcome of an election." *See* § 24.2-901(A). Therefore, just as a narrow statutory construction of § 24.2-908 might eliminate the constitutional issues presented in the challenge to that section, narrow construction of § 24.2-910 might eliminate the constitutional issues presented in the challenge to that section as well.

VA.CODE Ann. § 24.2-1014

The challenge to § 24.2-1014 is more problematic in light of *McIntyre v. Ohio Elections Commission*, 514 U.S. 334, 115 S. Ct. 1511, 131 L.Ed.2d 426 (1995). *McIntyre* ***1076** presented the question of whether an Ohio statute that prohibited the distribution of anonymous campaign literature was "a 'law . . . abridging the freedom of speech' within the meaning of the First Amendment." *McIntyre*, 514 U.S. at ----, 115 S. Ct. at 1514. McIntyre opposed an imminent referendum on a proposed school tax levy and distributed leaflets at a public meeting at an Ohio middle school. She composed and printed the text of the leaflets on her home computer and paid a professional printer to make additional copies. Some of the leaflets identified her as the author and others simply purported to be from "Concerned Parents and Tax Payers." All of the leaflets urged the voters to "vote no" on the referendum. The Ohio Elections Commission found that McIntyre's distribution of unsigned leaflets violated Ohio election law and imposed a $100 fine. The Ohio Supreme Court rejected McIntyre's

constitutional challenge to the statute. The Supreme Court granted certiorari and reversed.

The Court traced the essential role of anonymous speech, finding that "an author's decision to remain anonymous, like other decisions concerning omissions or additions to the content of a publication, is an aspect of the freedom of speech protected by the First Amendment." *Id.* at ----, 115 S. Ct. at 1516. According to the Court, "[t]he freedom to publish anonymously extends beyond the literary realm" to political speech. *Id.* at ----, 115 S. Ct. at 1516. The Court then determined that the statute involved placed a limitation on "core political speech" that was subject to "exacting scrutiny" and that could survive only if "narrowly tailored" to serve an overriding state interest. *Id.* at ----, 115 S. Ct. at 1519.

Ohio sought to justify the statute stating that it advanced the state's interest in "preventing fraudulent and libelous statements and its interest in providing the electorate with relevant information." *Id.* at ----, 115 S. Ct. at 1519. The Court concluded that the statute accomplished neither purpose advanced by the state and was unconstitutionally overbroad:

> As this case demonstrates, the prohibition encompasses documents that are not even arguably false or misleading. It applies not only to the activities of candidates and their organized supporters, but also to individuals acting independently and using only their own modest resources. It applies not only to elections of public officers, but also to ballot issues that present neither a substantial risk of libel nor any potential appearance of corrupt advantage. It applies not only to leaflets distributed on the eve of an election,

> when the opportunity for reply is limited, but also to those distributed months in advance. It applies no matter what the character or strength of the author's interest in anonymity.

Id. at ----, 115 S. Ct. at 1521-22 (footnotes omitted).

Practically speaking, § 24.2-1014(B) is indistinguishable from the statute struck down in *McIntyre* and cannot, in its entirety, survive exacting scrutiny. Although the court finds important distinctions between anonymous pamphleteering in connection with a referendum and anonymous pamphleteering in connection with an election, § 24.2-1014(B) applies to both. Moreover, under § 24.2-1014(B)(3)(b) it is "unlawful for any person to cause any writing . . . to appear concerning any potential nominee or candidate . . . unless such writing plainly identifies the person responsible for it." The provision makes no pretense of limiting itself to electioneering. Therefore, although *Pullman* counsels abstention as to § 24.2-908 and § 24.2-910, the reach of § 24.2-1014(B)(3)(b) is clear, and it does not survive "strict scrutiny."

III.

The standard for preliminary injunctions in this circuit was established in *Blackwelder Furniture Co. v. Seilig Manufacturing Co.*, 550 F.2d 189 (4th Cir.1977). Four factors must be considered:

1. the likelihood of irreparable harm to the plaintiff if the preliminary injunction is denied;
2. the likelihood of harm to the defendant if the injunction is granted;

3. the likelihood that the plaintiffs will succeed on the merits; and
4. the public interest.

*1077 *Rum Creek Coal Sales, Inc. v. Caperton*, 926 F.2d 353, 359 (4th Cir.1991). These factors are not weighted equally. The "balance of hardships," determined by comparing the relevant harms to the parties, is the most important determination. *Hughes Network Sys. v. Interdigital Communications Corp.*, 17 F.3d 691 (4th Cir.1994). The determination of the balance of harms will dictate how strong a likelihood of success the plaintiffs must show. *Id.* Applying the Blackwelder standard, the court finds that the balance of harms weighs greatly in favor of the plaintiffs, that plaintiffs have shown serious questions for decision, and that the issuance of an injunction would serve the public interest. Accordingly, the court will enter the preliminary injunction.

When an individual's free speech rights are infringed, irreparable harm is generally inflicted. *Elrod v. Burns*, 427 U.S. 347, 96 S. Ct. 2673, 49 L.Ed.2d 547 (1976). In this case, the chilling effect of a broad reading of the challenged provisions is clear, and constitutes irreparable harm.

The degree of harm to be suffered by the defendants, should an injunction issue, is extremely slight. Defendants have articulated no lasting harm, and the only harm apparent would be that voters in this year's elections would have minimally less information about the origins of "issue advocacy" literature distributed during election season. Moreover, defendants assert that the challenged provisions do not even apply to the "issue advocacy" in which VSHL and Sexton seek to engage. Thus, the balance of harms between the injury to plaintiffs' First Amendment

freedoms and the negligible harm to defendants, tips dramatically in favor of VSHL and Sexton.

When the balance of harms greatly favors the plaintiffs, as here, they need only show "grave or serious" questions for ultimate decision. *L.J. By and Through Darr v. Massinga*, 838 F.2d 118, 120 (4th Cir.1988), *cert. denied*, 488 U.S. 1018, 109 S. Ct. 816, 102 L.Ed.2d 805 (1989). Given the substantial questions of the constitutionality of the challenged Virginia statutes discussed in Part II, above, the court concludes that plaintiffs have met this burden of showing serious issues for decision by the court.

The public interest is the last factor to be considered, and it too, points to the issuance of an injunction in this case. Given the importance of core political speech and the possible chilling effect of the statutory scheme, the court concludes that an injunction limiting enforcement of the relevant statutes would be in the public interest.

IV.

For the reasons stated, the court will enter a preliminary injunction enjoining the enforcement of § 24.2-908 and § 24.2-910, as indicated above, as applied to VSHL and Sexton. The court also will enjoin enforcement of § 24.2-1014(B)(3)(b) as to any person.

ORDER

October 21, 1995

In accordance with the Memorandum Opinion entered this day the court finds that plaintiffs, Virginia Society for Human Life, Inc. and Andrea Sexton will be

irreparably harmed were preliminary injunction not to issue, that defendants will not be irreparably harmed by the issuance of a preliminary injunction, that plaintiffs have shown a likelihood of success on the merits, and that the public interest will be served by the court's injunction. Accordingly, it is hereby

ORDERED AND ADJUDGED

that

(1) All named defendants and the defendant class, all Commonwealth's Attorneys for the Commonwealth of Virginia, are hereby enjoined from enforcing the following provisions of the Virginia Code ***1078** as to VSHL and Sexton pending final judgment on the merits of this case:

(a) Virginia Code § 24.2-908, except as to contributions and expenditures for express advocacy of the election or defeat of a specific candidate;

(b) Virginia Code § 24.2-910, except as to contributions received and expenditures made for express advocacy of the election or defeat of specific candidate;

(2) All named defendants and the defendant class, all Commonwealth's Attorneys for the Commonwealth of Virginia, are hereby enjoined from enforcing the following provisions of the Virginia Code pending final judgment on the merits of this case:

(a) Virginia Code § 24.2-1014(B)(3)(b).

(3) Bond for the preliminary injunction is set in the amount of $250 per plaintiff to be posted within five days.

Vern T. JORDAHL, et al., Plaintiffs,
v.
The DEMOCRATIC PARTY OF VIRGINIA, et al., Defendants.

Civil Action No. 95-1043-R.

United States District Court,
W.D. Virginia,
Roanoke Division.

Oct. 3, 1996.

***237** Donald Wise Huffman, Donald W. Huffman & Associates, P.C., Roanoke, VA, M. Miller Baker, Brian M. Tauscher, Matthew J. Cuccias, Carr, Goodson & Lee, P.C., Washington, DC, Craig Littleton Parshall, Fredericksburg, VA, James Bopp, Jr., Richard E. Coleson, Bopp, Coleson & Bostrom, Terre Haute, IN, for plaintiffs Vern T. Jordahl, Mary-Beth LaRock, Virginia Leadership Council.

John Hardin Young, Falls Church, VA, Gail Starling Marshall, Rapidan, VA, Melissa Walker Robinson, Jason G. Moyers, Gentry, Locke, Rakes & Moore, Roanoke, VA, Jay B. Myerson, Reston, VA, Rebecca Claire Guthrie, Richmond, VA, for defendants Democratic Party of Virginia, Chester A. Roberts, Richmond City Democratic Committee.

Alice Ann Berkebile, James Walter Hopper, James S. Gilmore, III, Office of Attorney General, Richmond, VA, for intervenor-defendant Commonwealth of Virginia.

CORRECTED MEMORANDUM OPINION

WILSON, District Judge.

This is an action pursuant to 42 U.S.C. § 1983 by plaintiffs, Vern T. Jordahl, Mary-Beth LaRock, and the Virginia Leadership Council, against defendants, the Democratic Party of Virginia ("DPV"), the Richmond City Democratic Committee, and other unnamed persons, for allegedly using state statutes and judicial proceedings to suppress political speech in violation of the First and Fourteenth Amendments to the United States Constitution.[1] Plaintiffs also assert ***238** various state law claims under the court's supplemental jurisdiction pursuant to 28 U.S.C. § 1367. DPV has moved to dismiss on various grounds.[2] The Commonwealth of Virginia has moved to intervene pursuant to 28 U.S.C. § 2403(b) to defend the constitutionality of Virginia's election laws should those laws be called into question in this suit, and the court has granted that motion. The court now concludes that the suit, in part, attempts to mount a collateral attack on state court judgments, an attack which this court lacks jurisdiction to hear; and, in part, assumes that Virginia courts will not follow the Constitution, an assumption that raises issues that are not ripe for decision and that conflicts with the essential tenets of federalism. The court accordingly dismisses plaintiffs' federal claims for lack of subject-matter jurisdiction and plaintiffs' state law claims for lack of supplemental jurisdiction.

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[1] Other defendants in the suit were voluntarily dismissed on March 1, 1996.

[2] Defendants argue that they were not state actors or acting under color of state law, or, alternatively, that they enjoy qualified immunity because of the uncertainty of the law. Additional grounds for dismissal include lack of jurisdiction, res judicata, collateral estoppel, statute of limitations, and laches.

I.

In 1989, Virginia held elections for Governor, Lieutenant Governor, Attorney General, and the General Assembly. The Virginia Leadership Council ("VLC") is an unincorporated association of certain Virginia citizens, which prepared and distributed voter guides for the election, comparing the political positions taken by the major parties' candidates. Vern Jordahl is a member of the VLC. Mary-Beth LaRock is a member of the Concerned Women for America ("CWA"), which prepared and distributed similar voter guides.

In connection with the 1989 elections, DPV sought an injunction against VLC and others. The day before the election, the Circuit Court of Fairfax County enjoined them from distributing voter guides and "any other materials or publications or writings as defined in [Va.Code §] 24.1-277." The injunction was effective "until such time as the defendants [in that action could] demonstrate to the court compliance with the law."[3] In a similar suit, the Circuit Court of the City of Richmond enjoined VLC and a named individual three days before the election "from distributing any literature of a political nature without first identifying by name and address the person causing the literature to be distributed, and including on any

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[3] The Fairfax County court vacated this injunction as to VLC and its members on September 30, 1994. In addition to the VLC, the injunction prohibited another citizens' association, calling itself the "Committee for Providing Truth in Political Candidate Positions," from distributing voter guides. The injunction remained in effect as to this organization and its members until March 21, 1996, after suit was filed in this court.

literature distributed the required authorization statement."[4]

In 1993, elections were held again for Governor, Lieutenant Governor, Attorney General, and the General Assembly. Following a similar pattern, shortly before the election the Circuit Court of Fairfax County entertained a suit to enjoin distribution of certain handbills. On October 27, 1993, the Circuit Court enjoined LaRock and others "from distributing any writing . . . about candidates for any [elective] office . . . without first filing a statement of organization with the [Virginia State] Board [of Elections]" and identifying on the writing "the person responsible therefor" and the registration number.[5]

Jordahl and the other plaintiffs brought this suit against DPV and the other defendants on October 2, 1995, seeking injunctive, declaratory, and compensatory relief. The court scheduled the hearing on plaintiffs' motion for preliminary injunction together with a hearing on a motion for preliminary injunction ***239** in a related case on

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[4] By its terms, this injunction expired after the election.

[5] Defendants in the Fairfax County Circuit Court action filed suit in the United States District Court for the Eastern District of Virginia immediately following the Circuit Court injunction. The District Court dismissed the suit on the authority of *Younger v. Harris*, 401 U.S. 37, 91 S. Ct. 746, 27 L.Ed.2d 669 (1971). The Court of Appeals concluded that abstention was proper. *See Family Foundation, Inc. v. Brown*, 9 F.3d 1075 (4th Cir.1993). The Virginia Supreme Court dissolved the injunction against LaRock and others on November 1, 1993, without opinion.

October 11, 1995.[6] At the combined hearing, the court announced that it would abstain from ruling on the motion for preliminary injunction in this suit while the parties sought dissolution of the 1989 Fairfax County injunction that remained in effect.[7] The Fairfax County Circuit Court dissolved its injunction and dismissed proceedings in that court March 21, 1996. Also after the October hearing before this court, the Virginia General Assembly amended the pertinent provisions of the Campaign Finance Disclosure Act.[8]

In the meantime, plaintiffs filed a nine-count amended complaint in this suit seeking injunctive, declaratory, and compensatory relief. Count One of the amended complaint alleges that various provisions of Virginia's Campaign Finance Disclosure Act, in connection with VA.CODE § 8.01-620, authorizing circuit courts to grant injunctive relief, constitute a system of prior restraint in violation of the First and Fourteenth Amendments to the United States Constitution. Under

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[6] The related case, *Virginia Society for Human Life v. Caldwell*, 906 F. Supp. 1071 (W.D.Va.1995), challenged the constitutionality of §§ 24.2-908, 24.2-910, and 24.2-1014 of Virginia's Campaign Finance Disclosure Act.

[7] *See supra* note 3.

[8] Since the plaintiffs' alleged injury, the Virginia General Assembly has changed the statutes at issue twice. In December 1993, the Virginia Assembly repealed the Fair Election Practices Act, Va.Code §§ 24.1-1 through 24.1-282, and enacted the Campaign Finance Disclosure Act, VA.CODE §§ 24.2-100 through 24.2-1019. Then in May 1996, after plaintiffs had filed this suit, the General Assembly further amended VA.CODE §§ 24.2-901, 24.2-908, 24.2-910, and 24.2-1014. *See* Act of May 6, 1996, ch. 1042.

Count One, plaintiffs seek to restrain DPV and others "from instituting, seeking, or procuring injunctions under color of VA.CODE § 8.01-620 that restrain speech . . . allegedly in violation of VA.CODE §§ 24.2-908, 24.2-910, and 24.2-1014(B)(3)." Counts Two, Three, Seven, and Eight are 42 U.S.C. § 1983 claims for injuries allegedly caused by either the 1989 or 1993 state court injunctions. Counts Four, Five, Six, and Nine are state law claims for injuries allegedly caused by those same injunctions.

This court must first determine whether it has subject-matter jurisdiction over the issues presented.

II.

Defendants have moved to dismiss Count One on the grounds that there is no justiciable case or controversy. The court agrees. Count One mounts no facial challenge; rather, it claims that the statutes as applied constitute a system of prior restraint.[9] However, in 1996 the Virginia General Assembly amended the campaign disclosure statutes plaintiffs challenge. A challenge based on the statutes in effect at the time of plaintiffs' alleged injury would be moot because those statutes no longer exist in the same form, and a challenge based on the current statutes is premature because they have not yet been applied.

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[9] Plaintiffs cite cases involving prosecutions, threats of prosecutions, or threats of legal sanctions in which courts found and enjoined systems of prior restraint. *See, e.g., Bantam Books, Inc. v. Sullivan*, 372 U.S. 58, 83 S. Ct. 631, 9 L.Ed.2d 584 (1963) (censorship commission); *Council for Periodical Distributors Ass'n v. Evans*, 642 F. Supp. 552 (M.D.Ala.1986) (pornography task force); *A.C.L.U. v. City of Pittsburgh*, 586 F. Supp. 417 (W.D.Pa.1984) (threat of prosecution and confiscatory sweep of news stands). There are no such actual or threatened legal sanctions in this case.

Because plaintiffs have suffered no "actual or threatened application" of the amended statutes to their activities, therefore, their claim is not ripe for adjudication under Article III. *See Renne v. Geary*, 501 U.S. 312, 320, 111 S. Ct. 2331, 2338, 115 L.Ed.2d 288 (1991) (holding challenge to state regulation of political endorsement was not ripe, absent some present threat of enforcement); *Woodall v. Reno*, 47 F.3d 656 (4th Cir.), *cert. denied*, --- U.S. ----, 115 S. Ct. 2577, 132 L.Ed.2d 827 (1995).[10] Additionally, to assume that Virginia courts will apply the recently amended statutes in a way that violates ***240** the Constitution offends basic tenets of federalism.[11] In contrast, this court's refusal to consider plaintiffs' challenge because they have presented no justiciable case or controversy "has the advantage of permitting the state courts further opportunity to construe" the statutes.

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[10] Not only is the plaintiffs' claim of prior restraint not ripe, it also strikes this court as incongruous to restrain DPV and others from litigating questions related to political campaigns. Enjoining DPV and others from seeking legal redress from the courts would be merely an unacceptable prior restraint of a different color.

[11] Plaintiffs correctly argue that the threat of enforcement and the chilling effect of that threat led this court to narrow by injunction the application of §§ 24.2-908; 24.2-910; and 24.2-1014 in *Va. Soc. For Human Life, Inc. v. Caldwell*, 906 F.Supp 1071 (W.D.Va.1995). Since that time, however, the Virginia General Assembly amended those provisions, ostensibly to narrow their reach. Moreover, this court proscribed their enforcement, not because two state circuit courts had issued prior restraints but rather because those courts had broadly construed the statutes. Given the recent amendments to the statutes involved, the evidence before this court "is insufficient to present the prior restraint issue in a 'clean-cut and concrete form.'" *Woodall*, 47 F.3d at 658 (citing *Renne v. Geary*, 501 U.S. at 322, 111 S. Ct. at 2339).

Renne, 501 U.S. at 323, 111 S. Ct. at 2339. Accordingly, the court dismisses Count One.

III.

United States District Courts lack the authority to "sit in direct review of state court decisions." *D.C. Court of Appeals v. Feldman*, 460 U.S. 462, 483 n.16, 103 S. Ct. 1303, 1315 n.16, 75 L.Ed.2d 206 (1983) (quoting *Atlantic Coast Line R. Co. v. Locomotive Engineers*, 398 U.S. 281, 296, 90 S. Ct. 1739, 1747, 26 L.Ed.2d 234 (1970)). *See also Rooker v. Fidelity Trust Co.*, 263 U.S. 413, 44 S. Ct. 149, 68 L.Ed. 362 (1923). This prohibition, which has come to be known as the *Rooker-Feldman* doctrine, extends not only to constitutional claims that were presented to or adjudicated by the state court but also to those that are "inextricably intertwined" with a state judgment. *Feldman*, 460 U.S. at 486-87, 103 S. Ct. at 1316-17. *See also Guess v. Board of Medical Examiners of N.C.*, 967 F.2d 998, 1004 n.2 (4th Cir.1992); *Leonard v. Suthard*, 927 F.2d 168, 169-170 (4th Cir.1991); *Czura v. Supreme Court of S.C.*, 813 F.2d 644, 646 (4th Cir.1987). Moreover, the *Rooker-Feldman* doctrine precludes review not only of adjudications of a state's highest court but decisions of lower state courts as well. *See Port Authority Police Benevolent Ass'n v. Port Authority of N.Y. and N.J. Police Dep't*, 973 F.2d 169, 177 (3d Cir.1992).

Plaintiffs bring suit under 42 U.S.C. § 1983 alleging damages as a result of injunctions issued against them by the lower state courts of Virginia.[12] The key issue is

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[12] In Counts Two and Three, VLC and Jordahl complain they were injured by the 1989 injunctions against them in the City of Richmond and the County of Fairfax. In Counts Seven and Eight, LaRock complains that she was injured by the 1993 injunction against her.

whether the injuries alleged by the federal plaintiffs resulted from the state court judgments or whether they are independent claims. *See Young v. Murphy*, 90 F.3d 1225, 1231 (7th Cir.1996); *Garry v. Geils*, 82 F.3d 1362, 1365 (7th Cir.1996). If the state court judgment caused the plaintiffs' injuries, "lower federal courts lack jurisdiction over the claim" *Kamilewicz v. Bank of Boston Corp.*, 92 F.3d 506, 510 (7th Cir.1996); *Garry*, 82 F.3d at 1365. In this case, plaintiffs claim they were injured as a result of state court injunctions--injuries caused not by the defendants but by the actions of the state courts. While the plaintiffs complain that the defendants sought the injunctions against them, the alleged injury occurred only when the state courts granted the injunctions. Thus, the plaintiffs are essentially claiming injury at the hands of the state court. Under *Rooker-Feldman*, a federal district court may not entertain such a suit.

Plaintiffs contend that *Rooker-Feldman* does not apply because Virginia courts eventually dissolved the injunctions against them leaving no outstanding judgments subject to attack within the state court system. Consequently, because the judgments were "invalidated," plaintiffs argue this is neither an appeal of nor a collateral attack on the earlier state court judgments. The court again disagrees. *Rooker-Feldman* applies to state judicial decisions and the effects of those decisions.[13] In each case the ***241** court should determine "whether the litigant challenges the underlying procedure as unconstitutional or instead seeks review of the state court judgment in his case." *Young*, 90 F.3d at 1231. In making that determination, "the fundamental and appropriate question

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[13] It is not limited simply to judgments. Lower federal courts have no jurisdiction "over challenges to state-court decisions in particular cases arising out of judicial proceedings." *Feldman*, 460 U.S. at 486, 103 S. Ct. at 1317.

to ask is whether the injury alleged by the federal plaintiff resulted from the state court judgment itself or is distinct from that judgment." *Garry*, 82 F.3d at 1365. If plaintiff is challenging the effects of the judgment or decisions and not an independent constitutional violation, *Rooker-Feldman* applies even if the state court has vacated or modified the judgment or decision that caused these effects. On that score *Young v. Murphy*, 90 F.3d 1225 (7th Cir.1996), is instructive.

Young involved a § 1983 action against government officials, alleging civil rights violations arising out of a competency hearing. After Wellman, an elderly and wealthy client, attempted to transfer his assets to his attorney, Young, state officials moved to declare Wellman incompetent. An Illinois circuit court granted the motion and appointed a guardian. Young later succeeded in having the state declare Wellman competent. Wellman died and Young, as executor of the estate, filed a federal civil rights suit on behalf of his deceased client against the public officials involved in the original competency hearing. The district court dismissed part of the suit for failure to state a claim. The Seventh Circuit affirmed that dismissal and dismissed the remainder of the suit for lack of subject-matter jurisdiction under *Rooker-Feldman*. *Id.* at 1227. The court noted that

> [c]ases dealing with *Rooker-Feldman* generally address instances where the underlying harm alleged in the complaint has gone unrectified. In this case we are presented with a situation where Young has already rectified the consequences of the allegedly unconstitutional state proceeding through the fully litigated restoration of Wellman to full competency in state court. Therefore Young would suggest that his suit

> is neither an appeal of, nor a collateral attack upon, the earlier incompetency proceeding. But attacking the effects of that judgment is exactly what he is doing. Wellman's injury resulted from the state court judgment of incompetency and not from the alleged denial of due process. Had he prevailed in the [earlier] hearing . . . he would have had no injury and no constitutional claim to bring before the district court. Thus, Young is really claiming Wellman's injury resulted from the state court judgment rather than the due process afforded by Illinois probate courts.

Id. at 1231 (citations omitted). In this case, as in *Young*, the plaintiffs are attacking the effects of the initial state court judgment—the injunction—and not any independent action by the defendants. Because "the plaintiffs' injury stem[s] from the state judgment," *GASH Associates v. Village of Rosemont, Ill.*, 995 F.2d 726, 728 (7th Cir.1993), this court lacks subject-matter jurisdiction to review that adjudication.

Finally the plaintiffs maintain that injunctions are excepted from *Rooker-Feldman* because they are "legislative" rather than "adjudicative" acts. The Supreme Court has held that the *Rooker-Feldman* doctrine only applies to adjudications, which involve the application of existing laws to the facts of a particular case. *See Feldman*, 460 U.S. at 479, 103 S. Ct. at 1313. Legislative acts, by contrast, "[look] to the future and [change] existing conditions by making a new rule to be applied thereafter to all or some part of those subject to [their] power[s]." *Id.* at 477, 103 S. Ct. at 1312 (quoting *Prentis v. Atlantic Coast Line Co.*, 211 U.S. 210, 226, 29 S. Ct. 67, 53 L.Ed. 150 (1908)). Although under some circumstances an injunction

may function in a legislative manner,[14] in this case the Virginia state courts granted the injunctions because those courts determined that the plaintiffs' actions violated existing laws. An injunction under these circumstances must be considered an adjudication for the purposes of *Rooker-Feldman*.

IV.

Because the court lacks subject-matter jurisdiction over the plaintiffs' federal ***242** claims, it has no supplemental jurisdiction over the state law claims. *See* 28 U.S.C.A. § 1367(a) (West 1993) ("[I]n any civil action of which the district courts have original jurisdiction, the district courts shall have supplemental jurisdiction over all other claims that . . . form part of the same case or controversy. . . ." (emphasis added)). Therefore, the court dismisses Counts Four, Five, Six, and Nine for lack of jurisdiction.

V.

For the reasons stated, the court dismisses Count One for lack of jurisdiction because there is no case or controversy; Counts Two, Three, Six, and Seven for lack of subject-matter jurisdiction under the *Rooker-Feldman* doctrine; and the state law claims in Counts Four, Five, Six, and Nine for lack of original federal jurisdiction on which to base supplemental jurisdiction.

ORDER

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[14] *See Hoover v. Wagner*, 47 F.3d 845, 849 (7th Cir.1995) (noting, without deciding the issue, that "[i]njunctions often do function quite like statutes").

In accordance with this court's memorandum opinion entered on this date, it is **ORDERED** and **ADJUDGED** that defendant's motion to dismiss for lack of subject-matter jurisdiction is granted.

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF VIRGINIA
ROANOKE DIVISION

VERN T. JORDAHL, et al.	)	
Plaintiffs,	)	Civil Action
	)	No. 95-1043-R
v.	)	
	)	**ORDER**
THE DEMOCRATIC PARTY OF VIRGINIA, et al.	)	
	)	By: Samuel G. Wilson
	)	United States District
Defendants	)	Judge

In accordance with this court's memorandum opinion entered on this date, it is **ORDERED** and **ADJUDGED** that defendant's motion to dismiss for lack of subject-matter jurisdiction is granted.

ENTER this 30th day of September, 1996.

/s/
DISTRICT JUDGE

Vern T. JORDAHL; Mary-Beth Larock; Virginia Leadership Council, Plaintiffs-Appellants,

v.

DEMOCRATIC PARTY OF VIRGINIA; Richmond City Democratic Committee, Defendants-Appellees,

Commonwealth of Virginia, Intervenor-Appellee,

and

Mark R. Warner; Pixie Bell; Lawrence H. Framme, III; Chester A. Roberts; John Does, Defendants.

No. 96-2402.

United States Court of Appeals,
Fourth Circuit.

Argued June 4, 1997.

Decided July 28, 1997.

*194 **ARGUED**: M. Miller Baker, Carr, Goodson, Lee & Warner, Washington, DC, for Appellants. Monica Leigh Taylor, Gentry, Locke, Rakes & Moore, Roanoke, VA; John Hardin Young, Falls Church, VA, for Appellees. Alice Ann Berkebile, Assistant Attorney General, Office of the Attorney General, Richmond, VA, for Intervenor. **ON BRIEF**: Brian M. Tauscher, Matthew J. Cuccias, Steven F. Gatti, Carr, Goodson, Lee & Warner, Washington, DC; James Bopp, Jr., Bopp, Coleson & Bostrom, Terre Haute, IN, for Appellants. Leisa Kube Ciaffone, Gentry, Locke, Rakes & Moore, Roanoke, VA; R. Claire Guthrie, Richmond, Virginia, for Appellees. James S. Gilmore, III, Attorney General of VA, Office of the Attorney General, Richmond, VA, for Intervenor.

Before WIDENER and MURNAGHAN, Circuit Judges, and PHILLIPS, Senior Circuit Judge.

Affirmed by published opinion. Judge MURNAGHAN wrote the opinion, in which Judge WIDENER and Senior Judge PHILLIPS joined.

OPINION

MURNAGHAN, Circuit Judge:

In 1989 and again in 1993, the Virginia Leadership Council, Vern T. Jordahl, a member of the Virginia Leadership Council, and Mary-Beth LaRock, a member of the Concerned Women for America, prepared and sought to distribute voter guides comparing the political positions of the various candidates for the offices of Governor, Lieutenant Governor, Attorney General and General Assembly members. The voter guides did not endorse any candidate for a particular office. In both instances, the Democratic Party of Virginia sought and obtained three injunctions forbidding the plaintiffs from distributing the guides.

Thereafter, the plaintiffs sued the Democratic Party of Virginia for allegedly using state statutes and judicial proceedings to suppress political speech in violation of the First Amendment. The district court granted the Democratic Party's motion to dismiss on the grounds that the district court lacked subject matter jurisdiction over the matter. *See Jordahl v. Democratic Party of Virginia*, 947 F. Supp. 236 (W.D.Va.1996). For the reasons that follow, we affirm.

I.
FACTS AND PROCEDURAL HISTORY

The instant case centers upon three injunctions issued by the Virginia state courts. On *195 November 7, 1989, the Commonwealth of Virginia held regularly scheduled elections for Governor, Lieutenant Governor, Attorney General, and Delegates to the General Assembly. Prior to the election, the Virginia Leadership Council (VLC) and Vern Jordahl (Jordahl), a member of the VLC, prepared over one million voter guides for distribution comparing the policy positions of the various candidates for office. The voter guides did not endorse any of the candidates.

1989 Richmond Injunction

On November 4, 1989, however, the Democratic Party of Virginia (DPV) filed a Bill of Complaint in the Richmond City Circuit Court alleging that the VLC and others were violating the Virginia Fair Elections Practices Act (VFEPA), Va.Code Ann. § 24.1-251 et seq., repealed December 1, 1993.[1] On November 6, 1989, one day before the election, the Richmond Circuit court entered an order enjoining the VLC from distributing political literature "without first identifying . . . the person causing the literature to be distributed and including on any literature distributed the required authorization statement as required by § 24.1-277 of the Code of Virginia." The Order provided that the injunction automatically expired on

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[1] Specifically, the DPV alleged that the VLC failed to comply with the requirement that political committees file a statement of organization and periodic reports of contributions and expenditures. In addition, the DPV alleged that the VLC was distributing campaign literature that did not include identifying information, as is required by the VFEPA.

November 11, 1989, or upon compliance by the VLC with the statute. Subsequently, on October 11, 1994, the Richmond action was dismissed for failure to prosecute.

1989 Fairfax Injunction

On November 4, 1989, the DPV also filed suit in the Circuit Court for Fairfax County against the VLC and others, alleging that the "Read Before You Vote" pamphlet[2] and certain "Voter Cards" were being distributed in violation of the VFEPA. As its counterpart in Richmond had, the Fairfax court entered an order enjoining the VLC from distributing the "Read Before You Vote" pamphlet and "Voter Cards" until an expedited hearing on November 6, 1989, or the VLC could demonstrate its compliance with the VFEPA. Following the hearing on November 6, 1989, the Fairfax court entered an order permanently enjoining the VLC from distributing either the pamphlet or voter guides. On September 30, 1994, by stipulation of the parties, the Fairfax court entered an order dismissing the claims against the VLC as moot and dissolving the injunction with respect to the VLC and Jordahl.

1993 Fairfax Injunction

On November 2, 1993, the Commonwealth of Virginia held regularly scheduled elections for Governor, Lieutenant Governor, Attorney General, and Delegates to the General Assembly. Prior to the election, Mary-Beth LaRock (LaRock), a state representative for Concerned Women for America (CWA) prepared voters guides outlining the various candidates' positions in the upcoming

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[2] The pamphlet urged voters to "cast your vote against candidate [Linda T. "Toddy"] Puller" if "you disagree with any of these questions."

election. The voter guides did not endorse any candidate. LaRock prepared over one million of these guides and was in the process of distributing the guides when the DPV filed suit in Fairfax County Circuit Court.

Again, the DPV alleged that LaRock and others were violating the VFEPA and sought an injunction. After initially entering a temporary restraining order, the Fairfax Court entered an order permanently enjoining LaRock and others "from distributing any writing . . . about candidates for any [elective] office . . . without first filing a statement of organization with the [Virginia State] Board [of Elections]" and identifying on the writing "the person responsible therefor" and the registration number.

Following the Fairfax Court's action, LaRock and others filed suit against the Fairfax Court judge in the United States District Court for the Eastern District of Virginia. The district court dismissed the suit on the authority of *Younger v. Harris*, 401 U.S. 37, 91 S. Ct. 746, 27 L.Ed.2d 669 (1971). *See* ***196** *Family Found., Inc., et al. v. J. Howe Brown, etc.*, CA 93-1339A (E.D.Va. Oct. 29, 1993). The Fourth Circuit affirmed the district court denying LaRock and others' request for an emergency stay. *See Family Found., Inc. v. Brown*, 9 F.3d 1075 (4th Cir.1993). The Virginia Supreme Court dissolved the Fairfax court's injunction on November 1, 1993, without opinion. Thereafter, LaRock voluntarily dismissed her appeal to this court as moot. On February 7, 1994, over the objections of LaRock and others, the DPV nonsuited the 1993 Fairfax action. On April 8, 1994, the Fairfax Court vacated the order of nonsuit and dismissed the case without prejudice.

Virginia Statutes

On December 1, 1993, by a prior act of the Virginia General Assembly, the VFEPA was repealed and replaced by the Virginia Campaign Finance Disclosure Act (VCFDA), VA.CODE ANN. § 24.2-900 et seq. (Michie 1993 & Supp.1996). In 1996, the General Assembly enacted further amendments to the VCFDA, which became effective on July 1, 1996. *See* Act of May 6, 1996, ch. 1042 (further amending VA.CODE ANN. §§ 24.2-901, 24.2-908, 24.2-910, and 24.2- 1014). Specifically, the following relevant changes were made. First, in 1993, the term "political committee" was redefined to exclude 501(c)(3) corporations. *See* VA.CODE ANN. § 24.1-254.1 and VA.CODE ANN. § 24.2-901. Second, the 1996 amendments to § 24.2-1014(B) of the VCFDA added the term "clearly identified candidate" and deleted the term "potential nominee."

On October 2, 1995, the VLC filed the instant action against the DPV and other individuals, seeking compensatory and punitive damages, and injunctive and declaratory relief. The district court scheduled a hearing on plaintiffs' motion for a preliminary injunction together with a hearing for a preliminary injunction request in a related case.[3] At the combined hearing, the district court announced that it would refrain from ruling on the motions while the parties sought dissolution of the 1989 Fairfax

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[3] The related case, *Virginia Society for Human Life v. Caldwell*, 906 F. Supp. 1071 (W.D.Va.1995), challenged the constitutionality of §§ 24.2- 908, 24.2-910, and 24.2-1014 of the VCFDA.

Court injunction which remained in effect.[4] The Fairfax Court dissolved its injunction on March 21, 1996 with respect to the remaining parties.

On February 21, 1996, the VLC filed a nine-count First Amended Complaint against the DPV, seeking compensatory and punitive damages, and declaratory and injunctive relief. Counts One, Two, Three, Seven, and Eight, were brought under 42 U.S.C. § 1983. Count One alleged that various provisions of the VCFDA, in connection with VA.CODE ANN. § 8.01-620 (1992 & Supp.1996), authorizing circuit courts to grant injunctive relief, constituted a system of prior restraint in violation of the First and Fourteenth Amendments to the United States Constitution. Counts Two, Three, Seven, and Eight are § 1983 claims for injuries caused by the two 1989 and one 1993 injunctions entered by the Richmond and Fairfax state courts. Counts Four (abuse of process), Five (abuse of process), Six (malicious prosecution), and Nine (trespass to chattels) are state law claims for injuries allegedly caused by the issuance of those same injunctions.

On March 16, 1996, the DPV filed a motion to dismiss the VLC's complaint alleging, *inter alia*, that the district court lacked subject matter jurisdiction. On June 7, 1996, the VLC filed a motion for partial summary judgment as to the federal allegations contained in Counts One, Two, and Seven and as to the state allegations in Count Nine of the complaint. On July 26, 1996, the Commonwealth of Virginia filed a motion to intervene because the VLC's complaint called into question the constitutionality of VA.CODE ANN. §§ 24.2-908, 24.2-910,

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[4] While the injunction had been dissolved against the VLC and Jordahl, the injunction still remained in effect with respect to other parties who are not parties to the instant litigation.

and 24.2-1014. The district court granted the Commonwealth's motion.

On September 30, 1996, the district court granted the DPV's motion to dismiss on the grounds that the district court lacked subject matter jurisdiction because Count One did ***197** not present an actionable case or controversy and Counts Two, Three, Seven, and Eight, the other § 1983 claims were barred under the *Rooker-Feldman* doctrine.[5] Thereafter, the district court declined to exercise supplemental jurisdiction over the remaining state law claims. The district court dismissed the action without addressing the VLC's pending motion for partial summary judgment. The VLC now appeals.

II.
DISCUSSION

Principally, the VLC challenges the district court's dismissal of its complaint on the grounds that the district court lacked subject matter jurisdiction over the complaint and the district court's failure to assert supplemental jurisdiction over the remaining state law claims. The district court's dismissal of a complaint for lack of subject matter jurisdiction is reviewed de novo. *Tillman v. Resolution Trust Corp.*, 37 F.3d 1032, 1034 (4th Cir.1994). The district court's dismissal of the state law claims under

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[5] The *Rooker-Feldman* doctrine derives its name from *D.C. Court of Appeals v. Feldman*, 460 U.S. 462, 103 S. Ct. 1303, 75 L.Ed.2d 206 (1983), and *Rooker v. Fidelity Trust Co.*, 263 U.S. 413, 44 S. Ct. 149, 68 L.Ed. 362 (1923). At the motions hearing, the district court appropriately sua sponte raised the *Rooker-Feldman* issue, and received supplemental briefing from the parties on that issue. *See Moccio v. New York State Office of Court Admin.*, 95 F.3d 195, 198 (2d Cir.1996); *Garry v. Geils*, 82 F.3d 1362, 1367-68 (7th Cir.1996).

28 U.S.C. § 1367 is reviewed for abuse of discretion. *Shanaghan v. Cahill*, 58 F.3d 106, 110 (4th Cir.1995).

A. *Count One—Lack of Actionable Case or Controversy*

The district court dismissed Count One on the basis that no justiciable case or controversy existed. The district court stated that "[c]ount One mounts no facial challenge; rather, it claims that the statutes as applied constitute a system of prior restraint." *Jordahl v. Democratic Party of Virginia*, 947 F. Supp. 236, 239 (W.D.Va.1996) (italics in original). The district court noted that in 1996 the Virginia General Assembly amended the statutes that formed the basis for VLC's challenge. As such the district court reasoned that "[a] challenge based on the statutes in effect at the time of plaintiffs' alleged injury would be moot because those statutes no longer exist in the same form, and a challenge based on the current statutes is premature because they have not yet been applied." *Id.* The district court, relying on *Renne v. Geary*, 501 U.S. 312, 320, 111 S. Ct. 2331, 2338, 115 L.Ed.2d 288 (1991), noted that the VLC presently suffers no "actual or threatened application" of the amended statutes. *Id.*

Moreover, the district court reasoned that sustaining the VLC's present challenge to as yet not applied amended statutes "assumes that Virginia courts will apply the recently enacted amended statutes in a way that violates the Constitution . . .", *id.* at 239-40, an assumption the district court noted that "offends basic tenets of federalism." *Id.* at 240. The court then dismissed Count One.

VLC's primary disagreement with the district court is the district court characterization of its claim as stating only an "as applied" challenge rather than both an "as applied" and a facial challenge to the constitutionality of

the Virginia statutes. As for the "as applied" challenge, the VLC argues that the Virginia Assembly's actions in 1993 and 1996 amending the statutes at issue were non-material changes that did not materially alter the law. The VLC maintains that "[n]either the 1993 recodification, nor the 1996 amendments to the VCFDA prevents the DPV . . . from again enforcing Va.Code [Ann.] §§ 24.2- 908, 24.2-910 and 24.2-1014 by injunctions pursuant to Va.Code [Ann.] § 8-01-620 to prevent the VLC from distributing its voter guides in the 1997 and later elections." On the facial challenge front, the VLC contends that because in Count One it alleged that the challenged provisions of the VCFDA always violate the First Amendment, Count One alleges a facial challenge as well.

The VLC's argument is not persuasive. First, the statutes have been amended and, as the district court noted, the statutes which the VLC challenged are no longer the statutes ***198** in effect in Virginia. During the course of the struggle between the VLC and the DPV, the Virginia Assembly has twice amended the challenged statutes. In fact, in 1993, the statute challenged in the instant case was repealed altogether. Furthermore, the Virginia General Assembly further amended the new statute, the VCFDA, in 1996 in response to the Supreme Court's decision in *McIntyre v. Ohio Elections Comm'n*, 514 U.S. 334, 115 S. Ct. 1511, 131 L.Ed.2d 426 (1995).

In *Maryland Highways Contractors Ass'n v. State of Md.*, 933 F.2d 1246 (4th Cir.), *cert. denied*, 502 U.S. 939, 112 S. Ct. 373, 116 L.Ed.2d 325 (1991), this court stated that an action is moot when it has "lost its character as a present, live controversy of the kind that must exist if we are to avoid advisory opinions on abstract propositions of law." *Id.* at 1249 (quoting *Diffenderfer v. Central Baptist Church*, 404 U.S. 412, 414, 92 S. Ct. 574, 575, 30 L.Ed.2d 567 (1972)). As noted above, since the statutes have been

amended, no present, live controversy exists. Thus, the district court correctly concluded that an "as applied" challenge to the pre-amended statutes is moot. *See Renne v. Geary*, 501 U.S. 312, 320, 111 S. Ct. 2331, 2338 (1991) (holding that respondents have "failed to demonstrate a live dispute involving the actual or threatened application of [state statute] to bar particular speech."); *Woodall v. Reno*, 47 F.3d 656, 658 (4th Cir.) (dismissing case as moot because "no factual record of an actual or threatened application of the [Act's] injunctive relief provisions" existed and court would not "assume that a court would issue an injunction in violation of the well-established prior restraint doctrine"), *cert. denied*, 515 U.S. 1141, 115 S. Ct. 2577, 132 L.Ed.2d 827 (1995).

Moreover, as the district court noted an "as applied" challenge with respect to the newly amended statutes is premature. The VLC contends that the case is ripe because the DPV has not disclaimed its ability to seek to enforce the newly amended Virginia statutes against the VLC in the future. The VLC's argument is a nonstarter. The VLC is not presently subject to any injunction enforcing the VCFDA. M. Sue Wrenn Affidavit at ¶ 3. Nor has the VLC shown that the organization will be subject to injunctive relief issued against it during the fall 1997 general election. Rather, all the VLC can demonstrate is that in 1989 and 1993, under the VFEPA, the DPV successfully enjoined the VLC from distributing voter guides and other pamphlets in violation of the VFEPA. No evidence exists that the VLC is currently under an actual or threatened application of the new VCFDA.

In *Renne*, the Supreme Court noted that "past exposure to illegal conduct does not itself show a present case or controversy regarding injunctive relief . . . if unaccompanied by any continuing, present adverse effects." *Renne*, 501 U.S. at 320-21, 111 S. Ct. at 2338. The instant

case is even stronger. Here, the VLC can not even demonstrate that the DPV engaged in illegal conduct, especially since the DPV was able to persuade Virginia state courts on three occasions to issue injunctions against the VLC for violations of the VFEPA. Moreover, all of the "harms" which the VLC alleges were suffered by it are stated in the past tense and relate to the VFEPA, a statute which is no longer in effect. The 1989 and 1993 injunctions which formed the basis for this action have been dissolved, vacated, or dismissed. No action has been taken by the DPV to enforce the new VCFDA. Thus, no actual or threatened harm exists, and the district court correctly dismissed Count One on lack of ripeness grounds. *See Woodall*, 47 F.3d at 658 (action should be deferred until a "clean-cut and concrete" controversy exists).

Finally, we turn to the VLC's attempt to transform its "as applied" challenge into a facial challenge. A review of the VLC's First Amended Complaint and the relief sought demonstrates that the present action is properly characterized as an "as applied" challenge to the now repealed VEFPA. The VLC makes no assertion, nor demand that the now repealed VEFPA is unconstitutional and should be declared such. Rather, the VLC's demand states that "when enforced . . . by injunctions that restrain speech," the VEFPA, in combination with the general statute authorizing private parties to seek injunctive relief, constitutes an unconstitutional "*199 system of prior restraints." Thus, VLC's own characterization of its claim demonstrates its attack involved only an "as applied"

challenge.[6] Accordingly, the district court should be affirmed.[7]

B. Rooker-Feldman *Doctrine*

The district court dismissed Counts Two, Three, Seven, and Eight for lack of subject matter jurisdiction pursuant to the *Rooker-Feldman* doctrine. The doctrine prohibits the United States District Courts, with the exception of habeas corpus actions, from "sit[ting] in direct review of state court decisions." *Feldman*, 460 U.S. at 483 n.16, 103 S. Ct. at 1316 n.16. The *Rooker-Feldman* doctrine only applies to "adjudications" not "legislative acts." *Feldman*, 460 U.S. at 479, 103 S. Ct. at 1313. The Court has explained that adjudications involve application of existing laws to the facts of a particular case, while

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[6] Moreover, the DPV would not be the proper party to a valid facial challenge, the Commonwealth of Virginia would. Thus, the VLC has sued the wrong party, even if VLC had alleged a facial challenge to the VEFPA.

[7] As an aside, we note that in a case related to the present one, *Virginia Society for Human Life, Inc. v. Caldwell*, 906 F. Supp. 1071 (W.D.Va.1995), the same district judge preliminarily enjoined the same challenged provisions on the grounds that "the challenged provisions arguably apply to [plaintiffs] and have a chilling effect on their freedom of speech." *Id.* at 1072. In the interest of federalism and comity, the district court submitted the issues of state statutory construction of those challenged provisions to the Virginia Supreme Court, and entered a preliminary injunction. Thus, the *Caldwell* case demonstrates that a facial challenge may be brought against the challenged provisions, and perhaps, a facial challenge may be successful. As noted above, however, unlike the plaintiffs in *Caldwell* who brought a facial challenge to the statute arguing that the challenged provisions were overbroad, the VLC has not done so in the instant case.

legislative acts "[look] to the future and [change] existing conditions by making a new rule to be applied thereafter to all or some part of those subject to [their] power[s]." *Id.* at 477, 103 S. Ct. at 1312.

The doctrine extends not only to constitutional claims presented or adjudicated by the state courts but also to claims that are "inextricably intertwined" with a state court judgment. *Feldman*, 460 U.S. at 486-87, 103 S. Ct. at 1316-17; *Leonard v. Suthard*, 927 F.2d 168, 169-70 (4th Cir.1991). Furthermore, the *Rooker-Feldman* doctrine precludes not only review of adjudications of the state's highest court, but also the decisions of its lower courts. *See Port Auth. Police Benevolent Ass'n v. Port Auth. of N.Y. and N.J. Police Dep't*, 973 F.2d 169, 177 (3d Cir.1992). With these principles in mind, we now address the VLC's claim that the *Rooker-Feldman* doctrine does not pose a bar to its § 1983 claims.

In the instant case, the district court concluded that the *Rooker-Feldman* doctrine barred the court's consideration of the VLC's § 1983 claims. The district court stated that the "key issue is whether the injuries alleged by the federal plaintiffs resulted from state court judgments or whether they are independent claims." The district court concluded that:

> In this case, plaintiffs claim they were injured as a result of state court injunctions—injuries caused not by the defendants but by the actions of state courts. While the plaintiffs complain that the defendants sought the injunctions against them, the alleged injury occurred only when the state court granted the injunctions. Thus, the plaintiffs are essentially claiming injury at the hands of the state court. Under *Rooker-Feldman*, a federal district court may not entertain such a suit.

Jordahl, 947 F. Supp. at 240.

The district court then addressed the VLC's argument that because the Virginia courts eventually dissolved the injunctions, no outstanding judgments subject to attack remained, and thus, the *Rooker-Feldman* doctrine does not operate as a bar to the district court's consideration of the § 1983 claims. In ascertaining whether the *Rooker-Feldman* doctrine applied the district court stated that it must determine "whether the litigant challenges the underlying procedure as unconstitutional or instead seeks review of the state court judgment in his case." *Jordahl*, 947 F. Supp. at 240-42. Relying principally ***200** upon *Young v. Murphy*, 90 F.3d 1225 (7th Cir.1996), the district court concluded that the doctrine barred the court's consideration of the VLC's claims.

In *Young*, plaintiff brought a § 1983 action against government officials, alleging various civil rights violations arising out of a competency hearing involving John Wellman, an elderly friend of the plaintiff's. After Wellman, a wealthy client, attempted to transfer his assets to plaintiff, his attorney,[8] state officials moved to declare Wellman incompetent. An Illinois circuit court granted the motion and appointed a guardian for Wellman. Ultimately, plaintiff succeeded in reversing the circuit court's judgment and having Wellman declared competent.

After Wellman died, plaintiff, as executor of the estate, filed a federal civil rights suit on behalf of his deceased client against the public officials involved in the original competency hearing. The district court dismissed part of the suit for failure to state a claim. On appeal, the Seventh Circuit affirmed the district court's dismissal and

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[8] Wellman did not have any family or other friends.

also remanded with instructions to dismiss the remainder of the complaint on the grounds that the *Rooker-Feldman* doctrine divested the district court of subject matter jurisdiction over the complaint.

In so holding, the circuit court, cited with approval by the district court in the instant case, stated:

> [c]ases dealing with *Rooker-Feldman* generally address instances where the underlying harm alleged in the complaint has gone unrectified. In this case we are presented with a situation where [plaintiff] has already rectified the consequences of the allegedly unconstitutional state proceedings through the fully litigated restoration of Wellman to full competency in state court. Therefore [plaintiff] would suggest that this suit is neither an appeal of, nor a collateral attack upon, the earlier incompetency proceeding. But attacking the effects of that judgment is exactly what he is doing. Wellman's injury resulted from the state court judgment of incompetency and not from the alleged denial of due process. Had he prevailed in the [earlier] hearing . . . he would have had no injury and no constitutional claim to bring before the district court. Thus, [plaintiff] is really claiming Wellman's injury resulted from the state court judgment rather than the due process afforded by Illinois probate courts.

Young, 90 F.3d at 1231.

Based on the *Young* case, the district court concluded that the VLC is attacking the effects of the

initial state court judgments, and not any independent action by the DPV. Thus, the court held that since the VLC's claimed injury "stems from the state court judgment", the court lacked subject matter jurisdiction over the claims.[9] *Jordahl*, 947 F. Supp. at 241.

The VLC challenges the district court's application of the *Rooker-Feldman* doctrine. The VLC argues that the *Rooker-Feldman* doctrine is inapplicable for a number of reasons: (1) the state court's decisions were not adjudications, but rather, legislative acts; (2) the state court's injunctions have been dissolved, thus no outstanding judgments or injunctions against VLC remain in effect; and (3) the doctrine does bar collateral attacks on ex parte state court orders.

1. Legislative vs. Adjudications

Principally, the VLC argues that the "sweeping and breathtakingly overbroad injunctions in the underlying actions . . . looked to the future and changed existing conditions by forbidding VLC's future speech and the future speech of non parties. . . ." The VLC's contention must fail.

Unquestionably, the state court proceedings required the state court to engage in a ***201** judicial inquiry into the DPV's claims of the VLC's alleged violation

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[9] The district court also rejected the VLC's argument that the injunctions were "legislative acts" rather than adjudications. The district court noted that "in this case, the Virginia state courts granted the injunctions because those courts determined that the [VLC's] actions violated existing laws. An injunction under these circumstances must be considered an adjudication for purposes of *Rooker-Feldman*." *Jordahl*, 947 F. Supp. at 241 (italics in original).

of Virginia's campaign statutes. Moreover, a judicial act was necessitated to declare and enforce those rights. The injunctions were "judicial" in nature because the injunctions required the VLC's immediate compliance with existing Virginia law. As for the VLC's future argument, the injunctions only remained in effect so long as the VLC did not comply with the existing law. The state court did not change or create new law. Rather, the state court was required to decide whether existing law had been violated. Thus, the state court's proceedings were "adjudications."

The VLC cites to a few cases which indicate that the issuance of injunctions may be legislative acts. *See, e.g., Hoover v. Wagner*, 47 F.3d 845, 849 (7th Cir.1995) (noting, without deciding the issue, that "[i]njunctions often do function like statutes."); *Cheffer v. McGregor*, 6 F.3d 705, 708 (11th Cir.1993), *vacated on other grounds*, 41 F.3d 1421 (11th Cir.1994) (en banc) (finding state court injunction to be statutory in character); *Henson v. East Lincoln Twp.*, 814 F.2d 410, 416 (7th Cir.1987) (injunction that corresponds to state statute for bringing about general compliance with the law is "legislative"), *cert. dismissed*, 506 U.S. 1042, 113 S. Ct. 1035, 122 L.Ed.2d 111 (1993).

Arguably, the VLC's strongest case is *Cheffer*, but that case provides little guidance for resolution of the present case. *Cheffer* involved an injunction prohibiting "pro-life" speech activities in a certain geographic area. As the court noted, the injunction had the "unusual characteristic" of extending to non-parties and imposing criminal penalties to otherwise constitutional activity. *Cheffer*, 6 F.3d at 708. In fact, the court stated that the injunction "has all the attributes of a criminal statute." *Id.*

Cheffer does not assist the VLC for two primary reasons. First, the injunctions at issue in the instant case did not apply to non-parties as the VLC argues. While the

injunction issued by the Fairfax court enjoined the VLC and "their officers, agents, representatives, associates, or anyone acting in concert with them . . .", the injunction included only those persons who would be acting under the direction of the VLC. Second, and more importantly, the *Cheffer* analysis did not arise within the *Rooker-Feldman* context. Thus, the state court injunctions are adjudications and the *Rooker-Feldman* doctrine bars the district court's consideration of the claims.

2. Dissolution of State Court Injunctions

Secondarily, the VLC argues that "[o]nce a judgment or order has been 'reversed or modified' in the state court system, it is no longer an 'effective and conclusive adjudication', thus nothing exists for a federal court to 'reverse or modify,' and *Rooker*'s limitation on statutory jurisdiction simply does not apply." The VLC argues that the district court's reliance on *Young* is misplaced. Instead, the VLC maintains that *Heck v. Humphrey*, 512 U.S. 477, 114 S. Ct. 2364, 129 L.Ed.2d 383 (1994), and *Homola v. McNamara*, 59 F.3d 647, 650 (7th Cir.1995), demonstrate that the dissolution of the state courts' injunctions allows for maintenance of the present action by the district court. Neither *Heck* or *Homola* supports the VLC's position.

In *Heck*, the Court reiterated its view that the *Rooker-Feldman* doctrine does not serve to bar a plaintiff's action that "will not demonstrate the invalidity of any outstanding criminal judgment. . . ." The Court stressed however, that the doctrine will serve as a bar if plaintiff's action requires the district court to " necessarily imply the invalidity of his conviction or sentence. . . ." *Heck*, 512 U.S. at 487, 114 S. Ct. at 2372 (emphasis added). Similarly, in *Homola*, the Seventh Circuit reiterated the tenets of the *Rooker-Feldman* doctrine. *See Homola*, 59

F.3d at 650. Neither of those cases stand for the proposition that once a state court decision has been reversed or modified, a federal district court may now pass upon the validity of that judgment, which is precisely what the district court recognized the VLC sought to do.[10]

***202** The *Rooker-Feldman* doctrine divests the district court of jurisdiction where "entertaining the federal claim should be the equivalent of an appellate review of [the state court] order." *FOCUS v. Allegheny County Ct. of Common Pleas*, 75 F.3d 834, 840 (3d Cir.1996). The controlling question in the *Rooker-Feldman* analysis is whether a party seeks the federal district court to review a state court decision and thus pass upon the merits of that state court decision, not whether the state court judgment is presently subject to reversal or modification. Put another way, if "in order to grant the federal plaintiff the relief sought, the federal court must determine that the [state] court judgment was erroneously entered or must take action that would render the judgment ineffectual," *Rooker-Feldman* is implicated. *Ernst v. Child and Youth Servs.*, 108 F.3d 486, 491 (3d Cir.1997); *see also Charchenko v. City of Stillwater*, 47 F.3d 981, 983 (8th Cir.1995) (*Rooker-Feldman* operates as a bar "if the relief requested in the federal action requires determining that the state court decision is wrong or would void the state court's ruling"). The *Rooker-Feldman* doctrine is in no way

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[10] The VLC's reliance on *United States v. Owens*, 54 F.3d 271 (6th Cir.), *cert. dismissed*, --- U.S. ----, 116 S. Ct. 492, 133 L.Ed.2d 418 (1995), is equally flawed. In that case, the court concluded that *Rooker-Feldman* did not operate as a bar against entities that were not parties in the state court action, and thus where no state court judgment exists against the entities. The VLC's reliance on the court's statement "against whom there is no state court judgment" is at best inaccurate, and at the least a distortion of the court's discussion of the doctrine in that case.

dependent upon the temporal procedural posture of the state court judgment, rather, the doctrine reinforces the important principle that review of state court decisions must be made to the state appellate courts, and eventually to the Supreme Court, not by federal district courts or courts of appeals.

In the instant case, the VLC seeks damages as a result of the state court's actions issuing the three injunctions at issue. It is axiomatic that in order for the VLC to obtain damages as a result of the state court's issuance of the injunctions at issue, the federal district court would be required to determine that the state courts' decisions were wrong. The present action by the VLC requires a review of the state courts' decisions--pure and simple.

A distinction must be made between actions seeking review of the state court decisions themselves and those cases challenging the constitutionality of the process by which the state court decisions resulted. For example, in *Feldman*, the Court recognized that the plaintiff was allowed to challenge the constitutionality of a rule under which he had been denied admission to the bar, but the Court prohibited the plaintiff from challenging in federal court, the denial itself. *Feldman*, 460 U.S. at 487-88, 103 S. Ct. at 1317-18; *see also Van Harken v. City of Chicago*, 103 F.3d 1346, 1349 (7th Cir.1997) (court held that federal plaintiffs' action merely seeking a declaration that the process under which parking charges were imposed were constitutionally inadequate, and not challenging the judgment in any parking case, was not barred by *Rooker-Feldman*.).

The VLC does not merely seek a declaration that the process by which the state court injunctions were issued was unconstitutional. *See supra* Part A. Here, the VLC seeks a federal district court to declare the Virginia state courts' decision in error, and in turn, to award the VLC damages as a result of the issuance of those injunctions. Furthermore, the VLC's attempt to narrow application of the doctrine to apply only in circumstances where a state court decision is still subject to reversal or modification is untenable. The fact that the injunctions are no longer presently in effect does not alter the analysis under *Rooker-Feldman*. The VLC still seeks federal court review of the validity of those state court judgments, a review which the federal district court is not empowered to undertake.

Moreover, the VLC may not escape the jurisdictional bar of *Rooker-Feldman* by merely refashioning its attack on the state court judgments as a § 1983 claim. *See Bechtold v. City of Rosemount*, 104 F.3d 1062, 1065 (8th Cir.1997) ("cases make it clear that a litigant cannot circumvent *Rooker-Feldman* by recasting his or her lawsuit as a § 1983 action"). As this court has stated in *Leonard v. Suthard*, 927 F.2d 168 (4th Cir.1991), where plaintiffs' claims are "inextricably intertwined" with the merits of a state court decision, then the district court is ***203** being asked to review the state court decision, a result prohibited under *Rooker-Feldman*. *Id.* at 169-70.

The VLC's § 1983 claims that the Virginia statutes constitute an unconstitutional system of prior restraint are "inextricably intertwined" with the state court decisions issuing the injunctions. Federal review of the VLC's claim would require the district court to decide the validity or invalidity of the state court's decision to issue the injunctions. Moreover, as the district court recognized relying upon *Young*, the alleged harm suffered by the VLC

is a result of the state court injunctions, not of the DPV's lawful use of the state court system. If the state courts did not issue the injunctions, the VLC would have no harm of which to complain. *See also Homola*, 59 F.3d at 650 ("A defendant who has lost in state court and sues in federal court does not assert injury at the hands of his adversary; he asserts injury at the hands of the court, and the second suit therefore is an effort to obtain collateral review."). Thus, the district court is affirmed as the VLC's claims are barred by the *Rooker-Feldman* doctrine.[11]

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[11] Although the district court did not address the VLC's argument with respect to ex parte orders and the *Rooker-Feldman* doctrine, we are unpersuaded by the VLC's argument. First, the record reflects that the state courts in 1989 and 1993 held hearings, and the VLC was given an opportunity to be heard and contest the injunctions. Indeed, in the 1993 Fairfax action, LaRock's constitutional and other objections were noted on the face of the injunction itself. Second, the VLC may challenge the state court's order in the Virginia Supreme Court, the proper avenue for such an appeal. *See Young*, 90 F.3d at 1230 ("litigants who feel a state proceeding has violated their constitutional rights must appeal that decision through their state courts and thence to the Supreme Court."). In fact, LaRock apparently recognizes the proper course as she appealed the 1993 Fairfax injunction to the Virginia Supreme Court, which summarily dissolved the state court injunction. Third, the VLC's reliance upon *Resolute Ins. Co. v. State of North Carolina*, 397 F.2d 586 (4th Cir.), *cert. denied*, 393 U.S. 978, 89 S. Ct. 446, 21 L.Ed.2d 439 (1968), is misplaced. In that case, the court noted that "a federal court may entertain a collateral attack on a state court judgment which is alleged to have been procured through fraud, deception, accident or mistake." Although that statement was made within the context of res judicata, and not *Rooker-Feldman*, more importantly to the case at hand, the VLC has failed to identify any fraud or deception on the part of the DPV in the procurement of the injunctions at issue.

C. *Supplemental Jurisdiction*

After dismissing the federal claims, the district court similarly dismissed the remaining state law claims. The VLC claims that the district court erred in doing so.

28 U.S.C. § 1367(a) provides that "[i]n any civil action of which the district courts have original jurisdiction, the district court shall have supplemental jurisdiction over all other claims that . . . form part of the same case or controversy. . . ." The statute goes on to provide that a district court may decline to exercise supplemental jurisdiction in certain circumstances. *See* 28 U.S.C. § 1367(c)(3) ("the district court has dismissed all claims over which it has original jurisdiction . . .").

In the instant case, the district court dismissed the federal claims over which it had original jurisdiction and then declined to exercise supplemental jurisdiction over the remaining state law claims. Although the district court did not cite to § 1367(c)(3), it is clear from its opinion, that the district court exercised its discretion not to assert supplemental jurisdiction over the state law claims.

In *Shanaghan v. Cahill*, 58 F.3d 106 (4th Cir.1995), we noted that "trial courts enjoy wide latitude in determining whether or not to retain jurisdiction over state claims when federal claims have been extinguished." *Id.* at 110 (citing *Noble v. White*, 996 F.2d 797, 799 (5th Cir.1993)). The doctrine of supplemental jurisdiction, the court emphasized, "is a doctrine of flexibility, designed to allow courts to deal with cases involving pendent claims in a manner that most sensibly accommodates a range of concerns and values." *Shanaghan*, 58 F.3d at 106 (quoting *Carnegie-Mellon University v. Cohill*, 484 U.S. 343, 350, 108 S. Ct. 614, 619, 98 L.Ed.2d 720 (1988)).

In the instant case, no evidence of abuse of discretion by the district court exists in its decision to decline to exercise supplemental jurisdiction over the remaining state law claims. Thus, the district court is affirmed on this basis as well.

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III.
CONCLUSION

The district court properly dismissed Count One on grounds of mootness and lack of ripeness. Counts Two, Three, Seven, and Eight were properly dismissed under the *Rooker-Feldman* doctrine. Finally, the district court did not abuse its discretion in declining to exercise supplemental jurisdiction over the remaining state law claims. The judgment of the district court is accordingly

AFFIRMED.

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

FILED
August 22, 1997

No.: 96-2402
CA-95-1043-R

VERN T. JORDAHL; MARY-BETH LAROCK; VIRGINIA LEADERSHIP

Plaintiffs - Appellants

v.

DEMOCRATIC PARTY OF VIRGINIA; RICHMOND CITY DEMOCRATIC COMMITTEE

Defendants - Appellees

COMMONWEALTH OF VIRGINIA

Intervenor - Appellee

and

MARK R. WARNER; PIXIE BELL; LAWRENCE H. FRAMME, III; CHESTER A. ROBERTS; JOHN DOES

Defendants

On Petition for Rehearing with Suggestion for Rehearing In Banc

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Appellants' petition for rehearing and suggestion for rehearing in banc were submitted to this Court. As no member of this Court or the panel requested a poll on the suggestion for rehearing in banc, and

As the panel considered the petition for rehearing and is of the opinion that it should be denied,

IT IS ORDERED that the petition for rehearing and suggestion for rehearing in banc are denied.

For the Court,

/s/ Patricia S. Connor

CLERK

Ch. 1042
S.B. No. 170
ELECTIONS--CAMPAIGN FINANCE DISCLOSURE REQUIREMENTS--IDENTIFICATION OF PERSONS RESPONSIBLE FOR CAMPAIGN WRITINGS

An Act to amend and reenact §§ 24.2-901, 24.2-908, 24.2-910 and 24.2-1014 of the Code of Virginia, relating to requirements for campaign finance disclosure and for identifying persons responsible for campaign writings; penalties.

Approved May 6, 1996

Be it enacted by the General Assembly of Virginia:

1. That §§ 24.2-901, 24.2-908, 24.2-910 and 24.2-1014 of the Code of Virginia are amended and reenacted as follows:

§ 24.2-901. Definitions

A. As used in this chapter, unless the context requires a different meaning:

"Campaign committee" means the committee designated by a candidate to receive all contributions and make all expenditures for him or on his behalf in connection with his nomination or election.

"Contribution" means money and services of any amount, and any other thing of value over $100, given, advanced, promised, loaned, or in any other way provided to a candidate, campaign committee, political committee, inaugural committee, or person for the purpose of influencing the outcome of an election or defraying the costs of the inauguration of a Governor, Lieutenant Governor, or Attorney General. "Contribution" includes money, services, or things of value in any way provided by a candidate to his own campaign.

"Expenditure" means money and services of any amount, and any other thing of value over $100, paid, promised, loaned, provided, or in any other way disbursed by any candidate, campaign committee, political committee, inaugural committee, or person for the purpose of influencing the outcome of an election or defraying the costs of the inauguration of a Governor, Lieutenant Governor, or Attorney General.

"Inaugural committee" means any committee which anticipates receiving contributions or making expenditures, from other than publicly appropriated funds, for the inauguration of the Governor, Lieutenant Governor, or Attorney General and related activities.

"Independent expenditure" means an expenditure made by any person or political committee which is not made to, controlled by, coordinated with, or made upon consultation with a candidate, his campaign committee, or an agent of the candidate or his campaign committee.

"Person" means any individual or corporation, partnership, business, labor organization, membership organization, association, cooperative, or other like entity.

"Political action committee" means any organization, other than a campaign committee or political party committee, established or maintained in whole or in part to receive and expend contributions for political purposes.

"Political committee" means any state political party committee, congressional district political party committee, county or city political party committee for a county or city with a population of more than 100,000, organized political party group of elected officials, political action committee, ~~or~~ other committee, *person* or group of persons which receives contributions or makes expenditures for the purpose of influencing the outcome of any election. The term shall not include: *(i)* a campaign committee ~~or~~; *(ii)* a political party committee exempted pursuant to § 24.2-911; ***or (iii) a person who receives no contributions from any source and whose only expenditures are made solely from his own funds and are either contributions made by him which are reportable by the recipient pursuant to Article 4 (§ 24.2-914 et seq.) of this chapter or independent expenditures which are reportable by him to the extent required by subsection B of § 24.2-910, or a combination of such reportable contributions and independent expenditures***.

B. For the purpose of applying the filing and reporting requirements of Article 3 (§ 24.2-908 et seq.) and Article 4 (§ 24.2-914 et seq.) of this chapter, the terms "person," "political action committee," and "political committee" shall not include an organization holding tax-exempt status under § 501 (c) (3) of the United States Internal Revenue Code which, in providing information to voters, does not advocate or endorse the election or defeat of a particular candidate, group of candidates, or the candidates of a particular political party.

§ 24.2-908. Statement of organization

Each ~~person and~~ political committee which anticipates receiving contributions or making expenditures in excess of ~~$100~~ ***$200 in a calendar year*** shall file with the State Board a statement of organization (i) within ten days after its organization or, if later, within ten days after the date on which it has information which causes the ~~person or~~ committee to anticipate it will receive contributions or make expenditures in excess of ~~$100~~ ***$200*** or on which it otherwise becomes subject to the provisions of this chapter, and (ii) annually thereafter by January 15. ~~This requirement shall not apply to a person or committee whose only disbursement is in the form of a contribution and which itself receives no contributions from which the disbursement is made.~~

The statement of organization shall include:

1. The name and address of the ~~person or~~ committee;

2. The names, addresses, and relationships of affiliated or connected organizations;

3. The area, scope, or jurisdiction of the ~~person or~~ committee;

4. The name, residence and business addresses, and position of the custodian, if any, of books and accounts;

5. The name, residence address, and position of other principal officers, including officers and members of the finance committee, if any;

6. The name, address, office sought, and party affiliation of each individual whom the ~~person or~~ committee is supporting or opposing for nomination or for election to any public office whatever or, if supporting the entire ticket of any party, the name of the party;

7. In the event the ~~person or~~ committee is promoting or opposing a referendum, the subject of the

referendum, the date and location of the election, and a statement whether the ~~person or~~ committee is promoting or opposing the referendum question;

8. In the case of an inaugural fund committee, the name, address, and office to which elected of the person on whose behalf the committee is organized;

9. A statement whether the ~~person or~~ committee is a continuing one;

10. The disposition of residual funds which will be made in the event of dissolution;

11. A listing of all banks, safe-deposit boxes, or other repositories used; and

12. Such other information as shall be required by the State Board. Any change in information previously submitted in a statement of organization shall be reported to the State Board within ten days following the change. Any ~~person or~~ committee which, after having filed one or more statements of organization, disbands or determines it will no longer receive contributions or make expenditures during the calendar year in an aggregate amount exceeding ~~$100~~ ***$200*** shall so notify the State Board.

§ 24.2-910. Political committees and persons required to file disclosure reports

A. Any ~~person or~~ political committee required to file a statement of organization by § 24.2-908 shall be required to maintain records and file disclosure reports as provided in Article 4 ***(§ 24.2-914 et seq.) of this chapter***.

B. Any person ~~or~~ ***who is not a*** political committee ~~making~~ ***and who makes*** independent expenditures***, in the aggregate, in excess of $500 for a statewide election or $200 for any other election*** shall maintain records and report pursuant to Article 4 ***(§ 24.2-914 et seq.) of this chapter*** all ~~contributions~~

~~received and~~ *such independent* expenditures ~~made of~~ *including*:

1. Any funds~~, in the aggregate, in excess of $500 for a statewide election or $100 for any other election~~ expended for the purpose of influencing the outcome of any election ***for public office***; ***and***

2. Any funds ~~in any amount~~ expended to publish or broadcast to the public any material referring to a candidate by name, description, or other reference and (i) advocating his election or defeat, (ii) setting forth his position on any public issue, voting record, or other official acts, or (iii) otherwise designed to influence individuals to cast their votes for or against him or to withhold their votes from him~~; and~~

~~3. Any funds in any amount expended to publish or broadcast to the public any material promoting or opposing a question submitted to the voters in a referendum~~.

§ 24.2-1014. Identifying persons responsible for campaign writing; penalties

A. As used in this section "writing" includes any printed or otherwise reproduced statement or advertisement ***made for the purpose of influencing the outcome of an election for public office***, but shall not include editorial comment or news coverage which is sponsored and financed by the news medium publishing or broadcasting it nor writings authorized by the candidate on novelties including, but not limited to, pens, pencils, and buttons to be attached to wearing apparel.

B. It shall be unlawful for any person to cause any writing other than a television or radio broadcast to appear concerning any ~~**potential nominee or**~~ ***clearly identified*** candidate~~**, or concerning any question to be submitted to the voters**~~ unless such writing plainly identifies the person responsible for it. The writing shall carry the statement "authorized by" ..... and contain the following information to complete the statement:

1. The name of the candidate if the writing is authorized by the candidate or his campaign committee;

2. The name of the political party committee if the writing is authorized by that committee; or

3. If authorized by any person other than the candidate, his campaign committee, or a political party committee, either:

a. In the case of a committee that has filed a statement of organization under § 24.2-908, the full name of the committee and a registration number provided by the State Board, or

b. In any other case, the full name and residence address of the individual responsible for the writing.

C. It shall be unlawful for any person to use a false or fictitious name or address on any such writing described in subsection B.

D. It shall be unlawful for any person to cause any radio or television statement to appear ***concerning any clearly identified candidate*** unless the

advertisement or statement contains information which plainly identifies the candidate, committee, or individual responsible for it.

E. Any person violating any provision of this section shall be subject to a civil penalty not to exceed fifty dollars; and, in the case of a willful violation, he shall be guilty of a Class 1 misdemeanor. The procedure to enforce the civil penalty provided in this section shall be as stated in § 24.2-929. The violation of this section shall not void any election.

28 U.S.C. § 1367

§ 1367. Supplemental jurisdiction

(a) Except as provided in subsections (b) and (c) or as expressly provided otherwise by Federal statute, in any civil action of which the district courts have original jurisdiction, the district courts shall have supplemental jurisdiction over all other claims that are so related to claims in the action within such original jurisdiction that they form part of the same case or controversy under Article III of the United States Constitution. Such supplemental jurisdiction shall include claims that involve the joinder or intervention of additional parties.

(b) In any civil action of which the district courts have original

jurisdiction founded solely on section 1332 of this title, the district courts shall not have supplemental jurisdiction under subsection (a) over claims by plaintiffs against persons made parties under Rule 14, 19, 20, or 24 of the Federal Rules of Civil Procedure, or over claims by persons proposed to be joined as plaintiffs under Rule 19 of such rules, or seeking to intervene as plaintiffs under Rule 24 of such rules, when exercising supplemental jurisdiction over such claims would be inconsistent with the jurisdictional requirements of section 1332.

(c) The district courts may decline to exercise supplemental jurisdiction over a claim under subsection (a) if —

(1) the claim raises a novel or complex issue of State law,

(2) the claim substantially predominates over the claim or claims over which the district court has original jurisdiction,

(3) the district court has dismissed all claims over which it has original jurisdiction, or

(4) in exceptional circumstances, there are other compelling

reasons for declining jurisdiction.

(d) The period of limitations for any claim asserted under subsection (a), and for any other claim in the same action that is voluntarily dismissed at the same time as or after the dismissal of the claim under subsection (a), shall be tolled while the claim is pending and for a period of 30 days after it is dismissed unless State law provides for a longer tolling period.

(e) As used in this section, the term "State" includes the District of Columbia, the Commonwealth of Puerto Rico, and any territory or possession of the United States.

Virginia Code § 24.2-901 (enacted December 1, 1993, and as amended effective July 1, 1996)

§ 24.2-901 Definitions.

A. As used in this chapter, unless the context requires a different meaning:

"Campaign committee" means the committee designated by a candidate to receive all contributions and make all expenditures for him or on his behalf in connection with his nomination or election.

"Contribution" means money and services of any amount, and any other thing of value over $100, given, advanced, promised, loaned, or in any other way provided to a candidate, campaign committee, political committee, inaugural committee, or person for the purpose of influencing the outcome of an election or defraying the costs of the inauguration of a Governor, Lieutenant Governor, or Attorney General. "Contribution" includes money, services, or things of value in any way provided by a candidate to his own campaign and the payment by the candidate of any primary filing fee.

"Expenditure" means money and services of any amount, and any other thing of value over $100, paid, promised, loaned, provided, or in any other way disbursed by any candidate, campaign committee, political committee, inaugural committee, or person for the purpose of influencing the outcome of an election or defraying the costs of the inauguration of a Governor, Lieutenant Governor, or Attorney General.

"Inaugural committee" means any committee which anticipates receiving contributions or making expenditures, from other than publicly appropriated funds, for the inauguration of the Governor, Lieutenant Governor, or Attorney General and related activities.

"Independent expenditure" means an expenditure made by any person or political

committee which is not made to, controlled by, coordinated with, or made upon consultation with a candidate, his campaign committee, or an agent of the candidate or his campaign committee.

"Person" means any individual or corporation, partnership, business, labor organization, membership organization, association, cooperative, or other like entity.

"Political action committee "means any organization, other than a campaign committee or political party committee, established or maintained in whole or in part to receive and expend contributions for political purposes.

"Political committee" means any state political party committee, congressional district political party committee, county or city political party committee for a county or city with a population of more than 100,000, organized political party group of elected officials, political action committee, other committee, person or group of persons which receives contributions or makes expenditures for the purpose of influencing the outcome of any election. The term shall not include: (i) a campaign committee; (ii) a political party committee exempted pursuant to § 24.2-911; or (iii) a person who receives no contributions from any source and whose only expenditures are made solely from his own funds and are either contributions made by him which are reportable by the recipient pursuant to Article 4 (§ 24.2-914 et seq.) of

this chapter or independent expenditures which are reportable by him to the extent required by subsection B of § 24.2-910, or a combination of such reportable contributions and independent expenditures.

B. For the purpose of applying the filing and reporting requirements of Article 3 (§ 24.2-908 et seq.) and Article 4 of this chapter, the terms "person," "political action committee," and "political committee" shall not include an organization holding tax-exempt status under § 501 (c) (3) of the United States Internal Revenue Code which, in providing information to voters, does not advocate or endorse the election or defeat of a particular candidate, group of candidates, or the candidates of a particular political party.

Virginia Code § 24.2-908 (enacted December 1, 1993, and as amended effective July 1, 1996)

§ 24.2-908 Statement of organization.

Each political committee which anticipates receiving contributions or making expenditures in excess of $200 in a calendar year shall file with the State Board a statement of organization (i) within ten days after its organization or, if later, within ten days after the date on which it has information which causes the committee to anticipate it will receive contributions or make expenditures in excess of $200 or on

which it otherwise becomes subject to the provisions of this chapter, and (ii) annually thereafter by January 15.

The statement of organization shall include:

1. The name and address of the committee;
2. The names, addresses, and relationships of affiliated or connected organizations;
3. The area, scope, or jurisdiction of the committee;
4. The name, residence and business addresses, and position of the custodian, if any, of books and accounts;
5. The name, residence address, and position of other principal officers, including officers and members of the finance committee, if any;
6. The name, address, office sought, and party affiliation of each individual whom the committee is supporting or opposing for nomination or for election to any public office whatever or, if supporting the entire ticket of any party, the name of the party;
7. In the event the committee is promoting or opposing a referendum, the subject of the referendum, the date and location of the election, and a statement whether the committee is promoting or opposing the referendum question;
8. In the case of an inaugural fund committee, the name, address, and office to which elected of the person

on whose behalf the committee is organized;

9. A statement whether the committee is a continuing one;
10. The disposition of residual funds which will be made in the event of dissolution;
11. A listing of all banks, safe-deposit boxes, or other repositories used; and
12. Such other information as shall be required by the State Board.

Any change in information previously submitted in a statement of organization shall be reported to the State Board within ten days following the change.

Any committee which, after having filed one or more statements of organization, disbands or determines it will no longer receive contributions or make expenditures during the calendar year in an aggregate amount exceeding $200 shall so notify the State Board.

Virginia Code § 24.2-910 (enacted December 1, 1993, and as amended effective July 1, 1996)

§ 24.2-910 Persons and political committees required to file disclosure reports.

A. Any political committee required to file a statement of organization by § 24.2-908 shall be required to maintain records and file

disclosure reports as provided in Article 4 (§ 24.2-914 et seq.) of this chapter.

B. Any person who is not a political committee and who makes independent expenditures, in the aggregate, in excess of $500 for a statewide election or $200 for any other election shall maintain records and report pursuant to Article 4 of this chapter all such independent expenditures including:

1. Any funds expended for the purpose of influencing the outcome of any election for public office; and
2. Any funds expended to publish or broadcast to the public any material referring to a candidate by name, description, or other reference and (i) advocating his election or defeat, (ii) setting forth his position on any public issue, voting record, or other official acts, or (iii) otherwise designed to influence individuals to cast their votes for or against him or to withhold their votes from him.

Virginia Code § 24.2-1014 (enacted December 1, 1993, and as amended effective July 1, 1996)

§ 24.2-1014. Identifying persons responsible for campaign writings; penalties.

A. As used in this section "writing" includes any printed or otherwise reproduced statement or advertisement made for the purpose of influencing the outcome of an election for public office, but shall not include editorial comment or news coverage which is sponsored and financed by the news medium publishing or broadcasting it nor writings authorized by the candidate on novelties including, but not limited to, pens, pencils, and buttons to be attached to wearing apparel.

B. It shall be unlawful for any person to cause any writing other than a television or radio broadcast to appear concerning any clearly identified candidate unless such writing plainly identifies the person responsible for it. The writing shall carry the statement "authorized by. . . ." and contain the following information to complete the statement:

1. The name of the candidate if the writing is authorized by the candidate or his campaign committee;
2. The name of the political party committee if the writing is authorized by that committee; or
3. If authorized by any person other than the candidate, his campaign committee, or a political party committee, either:

a. In the case of a committee that has filed a statement of organization under § 24.2-908, the full name of the committee and a registration number provided by the State Board, or

b. In any other case, the full name and residence address of the individual responsible for the writing.

Virginia Code § 24.1-254.1 (repealed December 1, 1993)

§ 24.1-254.1 Statement of organization

(a) The term "committee" as used herein shall include each person, association, organization, group of individuals, any state political party, political action committee, or other committee which anticipates receiving contributions or making expenditures during the calendar year in an aggregate amount exceeding $100, but shall not include a candidate's campaign committee or a district, county, or city political party committee or an organized political party group of elected officials. Each committee shall file with the State Board of Elections a statement of organization (i) within ten days after its organization or, if later, ten days after the date on

which it has information which causes the committee to anticipate it will receive contributions or make expenditures in excess of $100 or on which it otherwise becomes subject to the provisions of this section; and (ii) annually thereafter by January 15.

(b) The statement of organization shall include:

(1) The name and address of the committee;

(2) The names, addresses, and relationships of affiliated or connected organizations;

(3) The area, scope, or jurisdiction of the committee;

(4) The name, residence and business addresses, and position of the custodian of books and accounts;

(5) The name, residence address, and position of other principal officers, including officers and members of the finance committee, if any;

(6) The name, address, office sought, and party affiliation of (i) each candidate whom the committee is supporting or opposing, and (ii) any other individual, if any, whom the committee is supporting or opposing for nomination for election, or election, to any public office whatever; or, if the committee is supporting

the entire ticket of any party, the name of the party;

(7) A statement whether the committee is a continuing one;

(8) The disposition of residual funds which will be made in the event of dissolution;

(9) A listing of all banks, safety-deposit boxes, or other repositories used; and

(10) [Repealed.]

(11) Such other information as shall be required by the State Board of Elections.

(c) Any change in information previously submitted in a statement of organization shall be reported to the secretary of the State Board of Elections within a ten-day period following the change.

(d) Any committee which, after having filed one or more statements of organization, disbands or determines it will no longer receive contributions or make expenditures during the calendar year in an aggregate amount exceeding $100 shall so notify the secretary of the State Board of Elections.

Virginia Code § 24.1-255(C) (repealed December 1, 1993)

§ 24.1-255. Money, etc., paid or reported to treasurer; duties of committees; report of persons receiving or disbursing moneys, etc.

C. Any committee, as defined in § 24.1-254.1, (i) which expends any funds in excess of $500 for a statewide election or $100 for any one other election for the purpose of influencing the outcome of any election, or (ii) which publishes or broadcasts to the public any material referring to a candidate (by name, description, or other reference) advocating the election or defeat of such candidate, setting forth the candidate's position on any public issue, his voting record, or other official acts or otherwise designed to influence individuals to cast their votes for or against such candidate or to withhold their votes from such candidate, or for the purpose of promoting or opposing a referendum, proposition, constitutional amendment, or other question submitted to the voters, shall maintain records and report all such receipts and disbursements of moneys, services, or other things of value over $100 pursuant to this chapter.

Virginia Code § 24.1-277 (repealed December 1, 1993)

§ 24.1-277 Writings concerning candidates for office to identify person responsible therefor; penalties.

A. As used in this section "writing" includes any written, printed or otherwise reproduced statement or advertisement of any class or description, but shall not include editorial comment or news coverage which is sponsored and financed by the news medium publishing or broadcasting it nor writings authorized by the candidate on novelties including, but not limited to, pens, pencils and buttons to be attached to wearing apparel.

B. It shall be unlawful for any person to cause any writing other than a television or radio broadcast to appear concerning any potential nominee or candidate, any candidate for nomination or any candidate for any office elective by the qualified voters or concerning any question or referendum to be submitted to the electors unless such writing plainly identifies the person responsible therefor and carries the statement "authorized by. . . ." and, as a minimum, information to complete the statement as follows:

1. The name of the candidate if the writing is authorized by the candidate or his campaign committee;
2. The name of the political party committee if the writing is authorized by that committee; or

3. If authorized by any person other than the candidate, his campaign committee, or a political party committee, either:

   a. in the case of a committee that has filed a statement of organization under § 24.1-254.1, the full name of the committee and a registration number provided by the State Board of Elections, or

   b. in any other case, the full name and residence address of the individual responsible for the writing.

It shall be unlawful for any person to cause any radio or television statement to appear unless the advertisement or statement contains information which plainly identifies the candidate, committee, or individual responsible therefor.

C. It shall be unlawful for any person to use a false or fictitious name or address on any such writing described in the preceding subsection.

D. Any person violating any provision of this section shall be subject to a civil penalty not to exceed fifty dollars; and, in the case of a willful violation, he shall be guilty of a Class 1 misdemeanor. The procedure to enforce the civil penalty provided herein shall be as stated in § 24.1-262. Violation of this section

shall not, however, require or result in the voiding of any election.